

# **EXHIBIT D**



ORRICK, HERRINGTON & SUTCLIFFE LLP  
1000 MARSH ROAD  
MENLO PARK, CALIFORNIA 94025-1015  
tel +1-650-614-7400  
fax +1-650-614-7401  
www.orrick.com

August 26, 2011

Monte Cooper  
(650) 614-7375  
mcooper@orrick.com

**VIA E-MAIL**

L. Timothy Fisher  
BURSOR & FISHER, P.A.  
2121 North California Blvd., Suite 1010  
Walnut Creek, CA 94596

Re: Facebook, Inc. v. Power Ventures, Inc., et al, Case No. 5:08-cv-05780 (N.D. Cal.)

Dear Tim:

As you know, the Court by Order dated August 18, 2011 compelled Power Ventures and Steve Vachani to produce “all source code and associated documentation related to the website www.power.com’ insofar as that source code was used for a number of specified purposes” that were referenced in Facebook’s Motion to Compel. *See* Dkt. No. 127. Such code included, at least, the code for the Defendants’ website, the code for PowerScript, PowerBrowser and their related applications, as well as the associated MSSQL database. I specifically asked for confirmation that all such code would be produced by Defendants in my email to you and Scott Bursor dated August 18, 2011. I repeated this request in an email on August 19, 2011.

As you further know, in accordance with the Court’s August 18, 2011 Order, Facebook’s consultant Larry Melling began his review of the source code that Power produced at your law offices on August 25, 2011. While Mr. Melling’s review is not yet complete, I understand that he already has advised you that critical aspects of Defendants’ source code are missing from the Court-ordered production. To wit, at least the following elements of the source code were not included in the production that Mr. Melling preliminarily inspected on August 25, 2011:

- 1) The dump of the MSSQL database and the MSSQL database itself were not present in the production that Mr. Melling inspected. Mr. Melling was able to find schema, sql, and dbml files that describe database tables, but the actual database data was not included in the production.
- 2) No PowerScript applications/functions or source code files associated with Facebook were included in the production. This is particularly problematic, as these files have been at the heart of the parties’ discussion about source code production.
- 3) The www.power.com website source code was not present, even though this code is specifically mentioned in the Court’s Order compelling production.



L. Timothy Fisher, Esq.

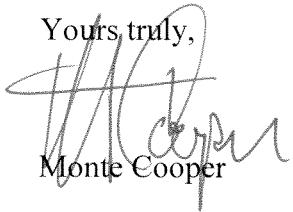
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My understanding is that Mr. Melling provided you a list of the specific missing modules and source code routines that he immediately recognized were omitted from the production. It further is my understanding that you advised Mr. Melling you would attempt to ascertain from your clients why the information is missing from the source code produced for inspection.

Please let us know by the close of business on Monday, August 29, 2011 whether the missing code will be produced for inspection, and when. It may be that Mr. Melling will identify additional code that is needed for inspection, but not present in the current production. If so, we will advise you immediately.

Yours truly,



Monte Cooper